

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO
H.R. 5018
OFFERED BY MR. POMBO OF CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE: AMENDMENT REFERENCES.

2 (a) SHORT TITLE.—The Act may be cited as the
3 “American Fisheries Management and Marine Life En-
4 hancement Act”.

5 (b) AMENDMENT OF MAGNUSON-STEVENSON FISHERY
6 CONSERVATION AND MANAGEMENT ACT.—Except as oth-
7 erwise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed as an amendment to, or repeal
9 of, a section or other provision, the reference shall be con-
10 sidered to be made to a section or other provision of the
11 Magnuson-Stevens Fishery Conservation and Manage-
12 ment Act (16 U.S.C. 1801 et seq).

13 SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.

14 (a) EXECUTION OF PRIOR AMENDMENTS.—

15 (1) CONTINENTAL SHELF FISHERY RE-
16 SOURCES.—Section 102(2) of the Sustainable Fish-
17 eries Act (Public Law 104–297; 110 Stat. 3561) is
18 amended—



1 (A) by striking “COELENTERATA” and
2 inserting “**COELENTERATA**”;

3 (B) by striking “CNIDARIA” and insert-
4 ing “**CNIDARIA**”; and

5 (C) by striking “CRUSTACEA” and in-
6 serting “**CRUSTACEA**”.

7 (2) UNITED STATES HARVESTED FISH.—Sec-
8 tion 102(11) of the Sustainable Fisheries Act (Pub-
9 lic Law 104–297; 110 Stat. 3563) is amended by
10 striking “(42)” and inserting “(43)”.

11 (3) EFFECTIVE DATE.—This subsection shall
12 take effect on the effective date of section 102 of
13 Public Law 104–297.

14 (b) CORRECTIONS RELATING TO SPECIAL AREAS.—
15 Section 3 (16 U.S.C. 1802) is amended—

16 (1) by striking paragraphs (35) and (36);

17 (2) by redesignating paragraphs (37) through
18 the last paragraph (relating to the definition of “wa-
19 ters of a foreign nation”) in order as paragraphs
20 (35) through (44);

21 (3) by inserting “(a) GENERAL DEFINITIONS.—
22 ” before “As used in this Act”; and

23 (4) by adding at the end the following:

24 “(b) TERMS RELATING TO AGREEMENT WITH THE
25 FORMER SOVIET UNION.—As used in this Act the term



1 ‘special areas’ means the areas referred to as eastern spe-
2 cial areas in Article 3(1) of the Agreement between the
3 United States of America and the Union of Soviet Social-
4 ist Republics on the Maritime Boundary, signed June 1,
5 1990. In particular, the term refers to those areas east
6 of the maritime boundary, as defined in that Agreement,
7 that lie within 200 nautical miles of the baselines from
8 which the breadth of the territorial sea of Russia is meas-
9 ured but beyond 200 nautical miles of the baselines from
10 which the breadth of the territorial sea of the United
11 States is measured.”.

12 **SEC. 3. SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT.**

13 (a) HARVEST LEVEL CAPS.—

14 (1) MECHANISM.—Section 303(a) (16 U.S.C.
15 1853(a)) is amended by striking “and” after the
16 semicolon at the end of paragraph (13), by striking
17 the period at the end of paragraph (14) and insert-
18 ing a semicolon, and by adding at the end the fol-
19 lowing:

20 “(15) provide a mechanism for specifying the
21 total allowable catch or another annual catch limit
22 under the plan (including for a multiyear plan) for
23 each fishery for which an annual catch limit can be
24 established, that—



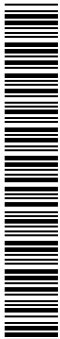
1 “(A) is based on the best scientific infor-
2 mation available; and

3 “(B) in the case of a plan issued by a
4 Council, does not exceed the acceptable biologi-
5 cal catch level recommended by the scientific
6 and statistical committee of the Council;”.

7 (2) REQUIREMENT TO ADOPT.—Section 302(h)
8 (16 U.S.C. 1852(h)) is amended by striking “and”
9 after the semicolon at the end of paragraph (5), by
10 striking the period at the end of paragraph (6) and
11 inserting a semicolon, and by adding at the end the
12 following:

13 “(7) adopt a total allowable catch limit or other
14 annual harvest effort control limit for each of the
15 fisheries for which such a limit can be established,
16 after considering the recommendation of the sci-
17 entific and statistical committee of the Council hav-
18 ing jurisdiction over the fishery, which shall not ex-
19 ceed the recommendation for the acceptable biologi-
20 cal catch as recommended by such scientific and sta-
21 tistical committee; and”.

22 (3) CONFORMING AMENDMENT.—Section
23 303(b)(11) (16 U.S.C. 1853(b)(11)) is amended by
24 striking “allowable biological catch” and inserting
25 “acceptable biological catch”.



1 (b) BEST SCIENTIFIC INFORMATION AVAILABLE.—
2 Section 303 (16 U.S.C. 1853) is amended by adding at
3 the end the following:

4 “(d) BEST SCIENTIFIC INFORMATION AVAILABLE.—
5 The Secretary shall develop guidelines for the Councils to
6 use in determining what is the best scientific information
7 available. The Secretary shall base these guidelines on the
8 recommendations for guidelines developed by the Ocean
9 Studies Board of the National Research Council in its re-
10 port titled ‘Improving the Use of the Best Scientific Infor-
11 mation Available, Standard in Fisheries Management’.”.

12 (c) SCIENTIFIC AND STATISTICAL COMMITTEES.—
13 Section 302(g)(1) (16 U.S.C. 1852(g)(1)) is amended by
14 inserting “(A)” before “Each Council”, and by adding at
15 the end the following:

16 “(B) Each scientific and statistical com-
17 mittee shall provide its Council ongoing sci-
18 entific advice for fishery management decisions,
19 including recommendations for acceptable bio-
20 logical catch and for the maximum sustainable
21 yield for each fishery under the jurisdiction of
22 the Council, and reports on stock status and
23 health, bycatch, habitat status, socio-economic
24 impacts of management measures, and sustain-
25 ability of fishing practices.



1 “(C) Members appointed to the scientific
2 and statistical committees shall be Federal em-
3 ployees, State employees, academicians, or inde-
4 pendent experts with strong scientific or tech-
5 nical credentials and experience.

6 “(D) In addition to payments authorized
7 by subsection (f)(7), the Secretary shall pay a
8 stipend to members of the scientific and statis-
9 tical committees who are not employed by the
10 Federal Government or a State government
11 agency.

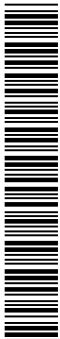
12 “(E) A science and statistical committee
13 shall hold its meetings in conjunction with the
14 meetings of the Council, to the extent prac-
15 ticable.”.

16 (d) SCIENTIFIC RESEARCH PRIORITIES.—Section
17 302(h) (16 U.S.C. 1852(h)) is further amended by adding
18 at the end the following:

19 “(8) develop, in conjunction with the scientific
20 and statistical committee, multi-year research prior-
21 ities for fisheries, fisheries interactions, habitats,
22 and other areas of research that are necessary for
23 management purposes, that shall—

24 “(A) establish priorities for 5-year periods;

25 “(B) be updated as necessary; and



1 “(C) be submitted to the Secretary and the
2 regional science centers of the National Marine
3 Fisheries Service for their consideration in de-
4 veloping research priorities and budgets for the
5 region of the Council.”.

6 (e) COOPERATIVE RESEARCH AUTHORITY.—

7 (1) DISCRETIONARY PROVISIONS IN FISHERY
8 MANAGEMENT PLANS.—Section 303(b) (16 U.S.C.
9 1853(b)) is amended by striking “and” after the
10 semicolon at the end of paragraph (11), by striking
11 the period at the end of paragraph (12) and insert-
12 ing a semicolon, and by adding at the end the fol-
13 lowing:

14 “(13) include provisions to create a cooperative
15 research component including the use of commercial
16 fishing, charter fishing, or recreational fishing ves-
17 sels for the gathering of data on stock abundance,
18 composition, distribution, or other relevant informa-
19 tion important for the implementation of the plan;”.

20 (2) COOPERATIVE RESEARCH BY SECRETARY.—

21 Section 404 (16 U.S.C. 1881c) is amended by add-
22 ing at the end the following:

23 “(e) COOPERATIVE RESEARCH BY SECRETARY.—The
24 research program under subsection (a) may include coop-
25 erative research using commercial fishing, charter fishing,



1 or recreational fishing vessels for the gathering of data
2 on stock abundance, composition, distribution, or other
3 relevant information.”.

4 (3) PRESERVING FISHING PRIVILEGES.—Sec-
5 tion 404 (16 U.S.C. 1881c) is further amended by
6 adding at the end the following:

7 “(f) PRESERVING FISHING PRIVILEGES.—The Sec-
8 retary shall ensure that—

9 “(1) fishing vessels participating in research ac-
10 tivities conducted pursuant to section 303(b)(13) or
11 title IV do not lose allocated fishing privileges (such
12 as days at sea) based on the research activities, un-
13 less loss of such privileges is a part of the research
14 plan under which the vessel participates; and

15 “(2) catch history of a vessel during such re-
16 search activities at any time when the vessel is sacri-
17 ficing fishing time in an open season shall accrue to
18 the vessel, unless loss of such accrual is part of such
19 research plan.”.

20 (f) REGIONAL STOCK ASSESSMENTS.—

21 (1) IN GENERAL.—Title IV (16 U.S.C. 1881 et
22 seq.) is amended by adding at the end the following:

23 **“SEC. 408. REGIONAL STOCK ASSESSMENTS.**

24 “(a) IN GENERAL.—The Secretary shall conduct
25 periodic regional assessments of stocks of fish.



1 “(b) INDEPENDENT REVIEW.—The Secretary shall
2 ensure that each periodic assessment under this section
3 is independently reviewed in a manner that—

4 “(1) will not delay the process of providing to
5 Regional Fishery Management Councils current as-
6 sessments for use in managing fisheries; and

7 “(2) is as transparent as possible, so that inter-
8 ested members of the public can provide input dur-
9 ing the review process.”.

10 (2) CLERICAL AMENDMENT.—The table of con-
11 tents in the first section is further amended by add-
12 ing at the end of the items relating to title IV the
13 following:

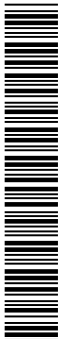
“Sec. 408. Regional stock assessments.”.

14 (3) REGIONAL STOCK ASSESSMENTS AND PEER
15 REVIEW.—Section 302(g) (16 U.S.C. 1852(g)) is
16 amended by adding at the end the following:

17 “(6) PEER REVIEW PROCESS.—

18 “(A) The Secretary and each Council shall
19 establish a peer review process for scientific in-
20 formation used to advise the Secretary or the
21 Council, respectively, about the conservation
22 and management of fisheries.

23 “(B) The Secretary and each Council shall
24 ensure that the peer review process established
25 under this paragraph—



1 “(i) to the extent practicable, will not
2 delay the process of providing to the Coun-
3 cil or the Secretary, respectively, current
4 information for use in managing fisheries;
5 and

6 “(ii) is as transparent as possible, so
7 that interested members of the public can
8 provide input during the review process.”.

9 **SEC. 4. DATA COLLECTION.**

10 (a) **AUTHORITY TO REQUIRE VMS.**—Section 305 (16
11 U.S.C. 1855) is amended by adding at the end the fol-
12 lowing:

13 “(j) **AUTHORITY TO REQUIRE VMS.**—The Secretary
14 may require, if requested to do so by a Council, a Vessel
15 Monitoring System or other similar electronic monitoring
16 technology for a fishery or specific sectors of a fishery
17 under the jurisdiction of the Council. To the extent that
18 the technology is required for enforcement or data collec-
19 tion purposes for a limited access privilege management
20 system, the cost of such a system shall be included in the
21 costs that are considered in determining the amount of
22 any fee required under this Act to be paid to participate
23 in the fishery. Any information collected under this sub-
24 section shall be treated as confidential and exempt from
25 disclosure under section 402(b).”.



1 (b) RECREATIONAL DATA COLLECTION.—

2 (1) ESTABLISHMENT OF PROGRAM.—Within 24
3 months after the date of enactment of this Act, the
4 Secretary of Commerce shall establish a program to
5 improve the quality and accuracy of information
6 generated by National Marine Fisheries Service rec-
7 reational fishing data collection programs, with a
8 goal achieving accurate, useful, and improved data
9 for each individual fishery. The program shall
10 include—

11 (A) an increased number of intercepts
12 above current baselines established by the Na-
13 tional Marine Fisheries Service to accurately es-
14 timate recreational catch and effort;

15 (B) use of surveys that target anglers reg-
16 istered at the State level to collect participation
17 and effort data;

18 (C) collection and analysis of vessel trip re-
19 port data from for-hire vessels including party,
20 head, and charter fishing vessels;

21 (D) development of a weather corrective
22 factor that can be applied to recreational catch
23 and effort estimates;

24 (E) an independent committee composed of
25 recreational fishermen, other stakeholders, aca-



1 demia, persons with expertise in stock assess-
2 ments and survey design, and appropriate Na-
3 tional Marine Fisheries Service personnel, to re-
4 view data collection estimates and geographic
5 and temporal issues, among other variables, re-
6 lated to intercepts, prior to the finalization of
7 the catch estimates; and

8 (F) identification of deficiencies in rec-
9 reational data collection (including with respect
10 to fishing on private property, night-time fish-
11 ing, and random digit dialing) and develop sam-
12 pling methods to correct the deficiencies.

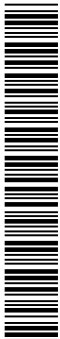
13 (2) REPORT.—The Secretary of Commerce shall
14 report to the Congress within 18 months after the
15 date of the enactment of this Act, on—

16 (A) the progress made in developing such
17 a program;

18 (B) whether the program has resulted in
19 significantly better data for management of rec-
20 reational fishing, and if not, plans to correct
21 problems in achieving that result; and

22 (C) actions to continue to make improve-
23 ments in data collection.

24 (3) AUTHORIZATION OF APPROPRIATIONS.—
25 To carry out this section there is authorized to be



1 appropriated to the Secretary of Commerce
2 \$5,000,000 for each of fiscal years 2007 through
3 2011.

4 (c) CONFIDENTIALITY OF INFORMATION.—

5 (1) IN GENERAL.—Section 402(b) (16 U.S.C.
6 1881a(b)) is amended to read as follows:

7 “(b) CONFIDENTIALITY OF INFORMATION.—

8 “(1) IN GENERAL.—Any information submitted
9 to the Secretary by any person in compliance with
10 any requirement under this Act shall be confidential
11 and shall not be disclosed, except—

12 “(A) to Federal employees and Council em-
13 ployees who are responsible for fishery manage-
14 ment plan development and monitoring;

15 “(B) to State or Marine Fisheries Commis-
16 sion employees—

17 “(i) as necessary for achievement of
18 the purposes of this Act; and

19 “(ii) in accordance with a confiden-
20 tiality agreement between the State or
21 Commission, as appropriate, and the Sec-
22 retary that prevents public disclosure of
23 the identity or business of any person;

24 “(C) when required by court order;



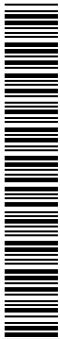
1 “(D) when such information is used by
2 State, Council, or Marine Fisheries Commission
3 employees to verify catch under a limited access
4 privilege program, but only to the extent that
5 such use is consistent with subparagraph (B);

6 “(E) if such information is required to be
7 submitted to the Secretary for any determina-
8 tion under a limited access program;

9 “(F) that observer information collected in
10 fisheries under the authority of the North Pa-
11 cific Council may be released to the public as
12 specified in a fishery management plan or regu-
13 lation for weekly summary bycatch information
14 identified by vessel, and for haul-specific by-
15 catch information without vessel identification;
16 or

17 “(G) when the Secretary has obtained
18 written authorization from the person submit-
19 ting such information to release such informa-
20 tion to persons for reasons not otherwise pro-
21 vided for in this subsection, and such release
22 does not violate other requirements of this Act.

23 “(2) PROCEDURES TO PRESERVE CONFIDEN-
24 TIALITY.—The Secretary shall, by regulation, pre-
25 scribe such procedures as may be necessary to pre-



1 serve the confidentiality of any observer information,
2 information produced by a vessel monitoring system,
3 or information produced by other technology used
4 on-board a vessel for enforcement or data collection
5 purposes, that is submitted in compliance with any
6 requirement or regulation under this Act, except
7 that the Secretary may release or make public—

8 “(A) any such information that in any ag-
9 gregate or summary form that does not directly
10 or indirectly disclose the identity or business of
11 any person who submits such information.

12 “(B) any such information when it is nec-
13 essary in proceedings to adjudicate observer
14 certifications; and

15 “(C) any such information as authorized
16 by any regulations issued under paragraph (4)
17 allowing the collection of observer information,
18 pursuant to a confidentiality agreement between
19 the observers, observer employers, and the Sec-
20 retary prohibiting disclosure of the information
21 by the observers or observer employers, for pur-
22 poses of—

23 “(i) allowing the sharing of observer
24 information among observers and between
25 observers and observer employers as nec-



1 essary to train and prepare observers for
2 deployments on specific vessels; or
3 “(ii) validating the accuracy of the ob-
4 server information collected.

5 “(3) USE FOR CONSERVATION AND MANAGE-
6 MENT PURPOSES.—Nothing in this subsection shall
7 be interpreted or construed to prevent the use for
8 conservation and management purposes by the Sec-
9 retary, or with the approval of the Secretary, the
10 Council, of any information submitted in compliance
11 with any requirement or regulation under this Act or
12 the use, release, or publication of bycatch informa-
13 tion pursuant to paragraph (1)(F).

14 “(4) MEMORANDUM OF UNDERSTANDING.—The
15 Secretary may enter into a memorandum of under-
16 standing with the heads of other Federal agencies
17 for the sharing of confidential information for pur-
18 poses of this Act, such as information produced by
19 vessel monitoring systems or other electronic moni-
20 toring systems, if the Secretary determines there is
21 a compelling need to do so and if the heads of the
22 other Federal agencies agree to maintain the con-
23 fidentiality of the information in accordance with the
24 requirements that apply to the Secretary under this
25 section.”.



1 (2) CONFORMING AMENDMENT.—Section
2 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by
3 striking “under section 401”.

4 (3) DEFINITIONS.—Section 3 (16 U.S.C. 1802)
5 is further amended in subsection (a)—

6 (A) by inserting after paragraph (4) the
7 following:

8 “(4A) The term ‘confidential information’
9 means—

10 “(A) trade secrets; or

11 “(B) commercial or financial information
12 the disclosure of which is likely to result in sub-
13 stantial harm to the competitive position of the
14 person who submitted the information to the
15 Secretary.”; and

16 (B) by inserting after paragraph (27) the
17 following:

18 “(27A) The term ‘observer information’ means
19 any information collected, observed, retrieved, or cre-
20 ated by an observer or electronic monitoring system
21 pursuant to authorization by the Secretary, or col-
22 lected as part of a cooperative research initiative, in-
23 cluding fish harvest or fish processing observations,
24 fish sampling or weighing data, vessel logbook data,
25 vessel- or fish processor-specific information (includ-



1 ing any safety, location, or operating condition ob-
2 servations), and video, audio, photographic, or writ-
3 ten documents.”.

4 (d) SOCIOECONOMIC DATA COLLECTION ACTIVI-
5 TIES.—Section 402 (16 U.S.C. 1881a) is further amended
6 by adding at the end the following:

7 “(g) SOCIOECONOMIC DATA COLLECTION.—

8 “(1) The Secretary may provide funds to Coun-
9 cils to carry out collection of socioeconomic data, in-
10 cluding information on fishermen and fishing com-
11 munities, necessary to carry out the functions of the
12 Councils.

13 “(2) To carry out this subsection there is au-
14 thorized to be appropriated to the Secretary, in addi-
15 tion to other amounts authorized, \$2,000,000 for
16 each fiscal year.”.

17 (e) NEED FOR MORE FREQUENT STOCK SURVEYS.—
18 The Secretary of Commerce—

19 (1) shall determine the need for more frequent
20 surveys of stocks of fish, and whether State agencies
21 or cooperative research activities can fill the data
22 gaps identified; and

23 (2) submit a report to the Congress on the cur-
24 rent activities and the needs for such surveys, by not



1 later than 2 years after the date of the enactment
2 of this Act.

3 **SEC. 5. COUNCIL OPERATIONS AND AUTHORITIES.**

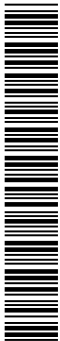
4 (a) COUNCIL APPOINTMENTS.—Section 302(b)(2)(C)
5 (16 U.S.C. 1852(b)(2)(C)) is amended by inserting after
6 the first sentence the following: “A Governor may submit
7 the names of individuals from academia, or other public
8 interest areas including conservation organizations and
9 the seafood consuming public, if the Governor has deter-
10 mined that each such individual is qualified under the re-
11 quirements of subparagraph (A).”.

12 (b) TRAINING.—Section 302 (16 U.S.C. 1852) is
13 amended by adding at the end the following:

14 “(k) COUNCIL TRAINING PROGRAM.—

15 “(1) TRAINING COURSE.—Within 6 months
16 after the date of the enactment of the American
17 Fisheries Management and Marine Life Enhance-
18 ment Act, the Secretary, in consultation with the
19 Councils and the National Sea Grant College Pro-
20 gram, shall develop a training course for newly ap-
21 pointed Council members. The course may cover a
22 variety of topics relevant to matters before the
23 Councils, including—

24 “(A) fishery science and basic stock assess-
25 ment methods;



1 “(B) fishery management techniques, data
2 needs, and Council procedures;

3 “(C) social science and fishery economics;

4 “(D) tribal treaty rights and native cus-
5 toms, access, and other rights related to West-
6 ern Pacific indigenous communities;

7 “(E) legal requirements of this Act, includ-
8 ing conflict of interest and disclosure provisions
9 of this section and related policies;

10 “(F) other relevant legal and regulatory
11 requirements, including the National Environ-
12 mental Policy Act (42 U.S.C. 4321 et seq.);

13 “(G) public process for development of
14 fishery management plans;

15 “(H) recreational and commercial fishing
16 information including fish harvesting tech-
17 niques, gear types, fishing vessel types, and eco-
18 nomics, for the fisheries within each Council’s
19 jurisdiction; and

20 “(I) other topics suggested by the Council.

21 “(2) MEMBER TRAINING.—The training
22 course—

23 “(A) shall be available to both new and ex-
24 isting Council members, staff from the regional



1 offices and regional science centers of the Na-
2 tional Marine Fisheries Service; and

3 “(B) may be made available to committee
4 or advisory panel members as resources allow.

5 “(3) REQUIRED TRAINING.—Council members
6 appointed after the date of the enactment of the
7 American Fisheries Management and Marine Life
8 Enhancement Act must complete the training course
9 developed under this subsection.”.

10 (c) AUTHORITY TO DEVELOP ECOSYSTEM-BASED
11 FISHERY MANAGEMENT PLANS.—Section 303(b) (16
12 U.S.C. 1853(b)) is further amended by adding at the end
13 the following:

14 “(14) contain research, conservation, and man-
15 agement measures that encompass more than one
16 fishery and are for the purpose of managing the
17 fishery resources concerned under an ecosystem-
18 based management system;”.

19 (d) AUTHORITY TO REQUIRE VESSEL MONITORING
20 SYSTEMS.—Section 303 (16 U.S.C. 1853) is further
21 amended by adding at the end the following:

22 “(15) require a Vessel Monitoring System or
23 other similar electronic monitoring technology for
24 the purposes of enforcing, monitoring, or collecting
25 data from a fishery or fishery sector;”.



1 (e) OBSERVER FUNDING CLARIFICATION.—Section
2 303 (16 U.S.C. 1853) is further amended by adding at
3 the end the following:

4 “(e) OBSERVER PROVISIONS.—

5 “(1) COSTS.—Costs for observer coverage that
6 is primarily for the enforcement of a fishery man-
7 agement plan or for data collection necessary for the
8 monitoring of a fishery—

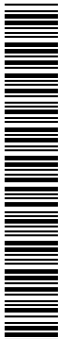
9 “(A) shall be paid for by the Secretary;
10 and

11 “(B) under a limited access program, may
12 be considered as a cost to be recovered under
13 the authority of section 303A(e)(2).

14 “(2) LIABILITY FOR SANCTIONS.—A fishing
15 vessel that is required to have an observer onboard
16 pursuant to section 303(b)(8), the owner or operator
17 of such a fishing vessel, and the United States shall
18 not be liable for any sanction imposed on the ob-
19 server for actions of the observer in the course of
20 performance of duties as an observer.”.

21 (f) INCENTIVES.—Section 303(b) (16 U.S.C.
22 1853(b)) is further amended by adding at the end the fol-
23 lowing:

24 “(16) establish a system of incentives to reduce
25 total bycatch and seabird interaction, bycatch rates,



1 and post-release mortality in fisheries under the
2 Council's or Secretary's jurisdiction, including—

3 “(A) measures to incorporate bycatch into
4 quotas, including the establishment of collective
5 or individual bycatch quotas;

6 “(B) measures to promote the use of gear
7 with verifiable and monitored low bycatch and
8 seabird interaction rates; and

9 “(C) measures that, based on the best sci-
10 entific information available, will reduce bycatch
11 and seabird interaction, bycatch mortality, post-
12 release mortality, or regulatory discards in the
13 fishery;”.

14 (g) MARINE PROTECTED AREAS AUTHORITY.—

15 (1) DISCRETIONARY AUTHORITY.—Section
16 303(b) (16 U.S.C. 1853(b)) is further amended by
17 adding at the end the following:

18 “(18) designate closed areas, seasonal closures,
19 time/area closures, gear restrictions, or other meth-
20 ods for limiting impacts on habitat, limit bycatch
21 impacts of gear, or limit fishing impact on spawning
22 congregations in specific geographic areas;”.

23 (2) REQUIREMENTS.—Section 303(a) (16
24 U.S.C. 1853(a)) is further amended by adding at
25 the end the following:



1 “(16) with respect to any closure of an area to
2 all fisheries managed under this Act, include provi-
3 sions that ensure that such closure—

4 “(A) is based on the best scientific infor-
5 mation available;

6 “(B) includes criteria to assess the con-
7 servation benefit of the closed area;

8 “(C) establishes a timetable for review of
9 the closed area’s performance that is consistent
10 with the purposes of the closed area; and

11 “(D) is based on an assessment of the ben-
12 efits and impacts of the closure, including its
13 size, in relation to other management measures
14 (either alone or in combination with such meas-
15 ures), including the benefits and impacts of lim-
16 iting access to—

17 “(i) users of the area;

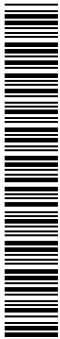
18 “(ii) overall fishing activity;

19 “(iii) fishery science; and

20 “(iv) fishery and marine conserva-
21 tion;”.

22 (h) FRAMEWORK AUTHORITY.—Section 304 (16
23 U.S.C. 1854) is amended by adding at the end the fol-
24 lowing:

25 “(i) ALTERNATIVE PROCEDURAL MECHANISMS.—



1 “(1) In a fishery management plan or amend-
2 ment, the Council or Secretary, as appropriate, may
3 develop alternative procedural mechanisms to be
4 used in lieu of plan amendments for implementing
5 conservation and management measures.

6 “(2) Such mechanisms may allow for abbrevi-
7 ated processes for the implementation of regula-
8 tions or other actions as appropriate.

9 “(3) Alternative procedural mechanisms shall
10 only be approved or adopted for use in situations in
11 which—

12 “(A) the conservation and management
13 measures are within the scope of conservation
14 and management measures established in an ex-
15 isting fishery management plan;

16 “(B) otherwise applicable regulatory proc-
17 esses are not sufficient to allow timely and effi-
18 cient implementation of conservation and man-
19 agement measures in response to new informa-
20 tion; and

21 “(C) notice of the conservation and man-
22 agement measures is provided appropriate to
23 the significance of the expected impacts on af-
24 fected fishery resources and on the participants
25 in the fishery.



1 “(4) Any final agency action taken pursuant to
2 the alternative procedural mechanism must be
3 promptly published in the Federal Register.”.

4 (i) COUNCIL MEETING NOTICE.—

5 (1) REGULAR AND EMERGENCY MEETINGS.—

6 The first sentence of section 302(i)(2)(C) (16 U.S.C.
7 1852(i)(2)(C)) is amended—

8 (A) by striking “published in local news-
9 papers” and inserting “provided by any means
10 that will result in wide publicity (except that e-
11 mail notification and Web site postings alone
12 are not sufficient)”; and

13 (B) by striking “fishery) and such notice
14 may be given by such other means as will result
15 in wide publicity.” and inserting “fishery).”.

16 (2) CLOSED MEETINGS.—Section 302(i)(3)(B)
17 (16 U.S.C. 1852(i)(3)(B)) is amended by striking
18 “notify local newspapers” and inserting “provide no-
19 tice by any means that will result in wide publicity”.

20 (j) CARIBBEAN COUNCIL JURISDICTION.—Section
21 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by
22 inserting “and of commonwealths, territories, and posses-
23 sions of the United States in the Caribbean Sea” after
24 “seaward of such States”.



1 (k) COUNCIL COORDINATION COMMITTEE.—Section
2 302 (16 U.S.C. 1852) is further amended by adding at
3 the end the following:

4 “(l) COUNCIL COORDINATION COMMITTEE.—The
5 Councils may establish a Council coordination committee
6 to discuss issues of relevance to all Councils, including
7 issues related to the implementation of this Act. The com-
8 mittee shall consist of the chairs, vice chairs, and executive
9 directors of each of the Councils described in subsection
10 (a)(1), or other Council members or staff.”.

11 **SEC. 6. ECOSYSTEM-BASED FISHERY MANAGEMENT.**

12 (a) POLICY.—Section 2(c) (16 U.S.C. 1851(c)) is
13 amended by striking “and” after the semicolon at the end
14 of paragraph (6), by striking the period at the end of para-
15 graph (7) and inserting “; and”, and by adding at the
16 end the following:

17 “(8) to support and encourage efforts to under-
18 stand the interactions of species in the marine envi-
19 ronment and the development of ecosystem-based
20 approaches to fisheries conservation and manage-
21 ment that will lead to better stewardship and sus-
22 tainability of the Nation’s coastal fishery resources
23 and fishing communities.”.



1 (b) AUTHORIZATION OF RESEARCH.—Section 404(c)
2 (16 U.S.C. 1881c(c)) is amended by adding at the end
3 the following:

4 “(5) The interaction of species in the marine
5 environment, and the development of ecosystem-
6 based approaches to fishery conservation and man-
7 agement that will lead to better stewardship and
8 sustainability of coastal fishery resources.”.

9 (c) REGULATIONS DEFINING TERMS.—The Secretary
10 of Commerce shall, in conjunction with the Regional Fish-
11 ery Management Councils and based on the recommenda-
12 tions of the Ecosystems Principles Advisory Panel in the
13 report entitled “Ecosystem-based Fishery Management”
14 and dated April 1999, and after provision of notice and
15 an opportunity for public comment, issue regulations that
16 establish definitions of the terms “ecosystem” and “ma-
17 rine ecosystem” for purposes of the Magnuson-Stevens
18 Fishery Conservation and Management Act (16 U.S.C.
19 1801 et seq.).

20 (d) REGIONAL ECOSYSTEM RESEARCH.—Section 406
21 (16 U.S.C. 1882) is amended by adding at the end the
22 following:

23 “(f) REGIONAL ECOSYSTEM RESEARCH.—

24 “(1) STUDY.—Within 180 days after the date
25 of enactment of the American Fisheries Manage-



1 ment and Marine Life Enhancement Act, the Sec-
2 retary, in consultation with the Councils, shall un-
3 dertake and complete a study on the state of the
4 science for advancing the concepts and integration of
5 ecosystem considerations in regional fishery manage-
6 ment. The study should build upon the recommenda-
7 tions of the advisory panel and include—

8 “(A) recommendations for scientific data,
9 information and technology requirements for
10 understanding ecosystem processes, and meth-
11 ods for integrating such information from a va-
12 riety of Federal, State, and regional sources;

13 “(B) recommendations for processes for in-
14 corporating broad stake holder participation;

15 “(C) recommendations for processes to ac-
16 count for effects of environmental variation on
17 fish stocks and fisheries; and

18 “(D) a description of existing and devel-
19 oping Council efforts to implement ecosystem
20 approaches, including lessons learned by the
21 Councils.

22 “(2) IDENTIFICATION OF MARINE ECOSYSTEMS;
23 RESEARCH PLAN.—

24 “(A) IN GENERAL.—Within one year after
25 the date of the publication of the study under



1 paragraph (1), the Secretary, in conjunction
2 with the regional science centers of the National
3 Marine Fisheries Service and the Councils,
4 shall—

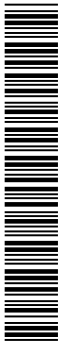
5 “(i) identify specific marine eco-
6 systems within each region for which a
7 Council is established by section 302(a);
8 and

9 “(ii) develop and begin to implement
10 regional research plans to address the in-
11 formation deficiencies identified by the
12 study.

13 “(B) RESEARCH PLANS.—The research
14 plans shall suggest reasonable timeliness and
15 cost estimates for the collection of the required
16 information.

17 “(C) REPORTS.—The Secretary shall re-
18 port to the Congress annually on the progress
19 of the regional research plans.

20 “(3) AGENCY TECHNICAL ADVICE AND ASSIST-
21 ANCE, REGIONAL PILOT PROGRAMS.—The Secretary
22 is authorized to provide necessary technical advice
23 and assistance, including grants, to the Councils for
24 the development and design of regional pilot pro-



1 grams that build upon the recommendations of the
2 advisory panel and, when completed, the study.”.

3 **SEC. 7. LIMITED ACCESS PRIVILEGE PROGRAMS.**

4 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)
5 is amended—

6 (1) by striking section 303(d); and

7 (2) by inserting after section 303 the following:

8 **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

9 “(a) IN GENERAL.—After the date of enactment of
10 the American Fisheries Management and Marine Life En-
11 hancement Act, a Council may submit, and the Secretary
12 may approve, for a fishery that is managed under a limited
13 access system, a limited access privilege program to har-
14 vest fish if the program meets the requirements of this
15 section.

16 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
17 EST.—A limited access system, limited access privilege,
18 quota share, or other authorization established, imple-
19 mented, or managed under this Act—

20 “(1) shall be considered a permit for the pur-
21 poses of sections 307, 308, and 309;

22 “(2) may be revoked, limited, or modified at
23 any time in accordance with this Act, including rev-
24 ocation for failure to comply with the terms of the
25 plan or if the system is found to have jeopardized



1 the sustainability of the stock or the safety of fisher-
2 men;

3 “(3) shall not confer any right of compensation
4 to the holder of such limited access privilege, quota
5 share, or other such limited access system authoriza-
6 tion if it is revoked, limited, or modified;

7 “(4) shall not create, or be construed to create,
8 any right, title, or interest in or to any fish before
9 the fish is harvested by the holder; and

10 “(5) shall be considered a grant of permission
11 to the holder of the limited access privilege or quota
12 share to engage in activities permitted by such lim-
13 ited access privilege or quota share.

14 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
15 LEGES.—

16 “(1) IN GENERAL.—In addition to complying
17 with the other requirements of this Act, any limited
18 access privilege program to harvest fish submitted
19 by a Council or approved by the Secretary under
20 this section shall—

21 “(A) if established in a fishery that is over-
22 fished or subject to a rebuilding plan, assist in
23 its rebuilding;

24 “(B) if established in a fishery that is de-
25 termined by the Secretary or the Council to



1 have over-capacity, contribute to reducing ca-
2 pacity;

3 “(C) promote—

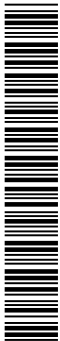
4 “(i) the safety of human life at sea;
5 and

6 “(ii) the conservation and manage-
7 ment of the fishery;

8 “(D) prohibit any person other than a
9 United States citizen, a corporation, partner-
10 ship, or other entity established under the laws
11 of the United States or any State, or a perma-
12 nent resident alien, that meets the eligibility
13 and participation requirements established in
14 the program from acquiring a privilege to har-
15 vest fish;

16 “(E) specify the goals of the program;

17 “(F) include provisions for the regular
18 monitoring and review by the Council and the
19 Secretary of the operations of the program, in-
20 cluding determining progress in meeting the
21 goals of the program and this Act, and any nec-
22 essary modification of the program to meet
23 those goals, with a formal and detailed review
24 5 years after the establishment of the program
25 and every 5 years thereafter;



1 “(G) include an effective system for en-
2 forcement, monitoring, and management of the
3 program, including the use of observers;

4 “(H) include an appeals process for admin-
5 istrative review of determinations with respect
6 to the Secretary’s decisions regarding adminis-
7 tration of the limited access privilege program;
8 and

9 “(I) provide for the revocation by the Sec-
10 retary of limited access privileges held by any
11 person found to have violated the antitrust laws
12 of the United States.

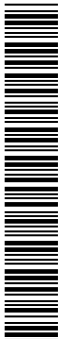
13 “(2) FISHING COMMUNITIES.—

14 “(A) IN GENERAL.—

15 “(i) ELIGIBILITY.—To be eligible to
16 participate in a limited access privilege
17 program to harvest fish, a fishing commu-
18 nity shall—

19 “(I) be located within the man-
20 agement area of the relevant Council;

21 “(II) meet criteria developed by
22 the relevant Council, approved by the
23 Secretary, and published in the Fed-
24 eral Register;



1 “(III) consist of residents of the
2 management area of the relevant
3 Council who conduct commercial or
4 recreational fishing, fish processing,
5 or fishery-dependent support busi-
6 nesses within such area; and

7 “(IV) develop and submit a com-
8 munity sustainability plan to the
9 Council and the Secretary that dem-
10 onstrates how the plan will address
11 the social and economic development
12 needs of fishing communities, includ-
13 ing those that have not historically
14 had the resources to participate in the
15 fishery, for approval by the Council
16 based on criteria developed by the
17 Council that have been approved by
18 the Secretary and published in the
19 Federal Register.

20 “(ii) FAILURE TO COMPLY WITH
21 PLAN.—The Secretary shall deny or revoke
22 limited access privileges for a person that
23 were granted to a fishing community, if
24 the person fails to comply with the require-
25 ments of the community sustainability plan



1 approved by the relevant Council under
2 clause (i)(IV).

3 “(B) PARTICIPATION CRITERIA.—In devel-
4 oping participation criteria for eligible commu-
5 nities under this paragraph, a Council shall
6 consider—

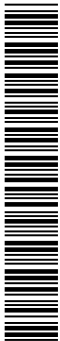
7 “(i) traditional fishing or fish proc-
8 essing practices in, and dependence on, the
9 fishery;

10 “(ii) the cultural and social frame-
11 work relevant to the fishery;

12 “(iii) economic barriers to access to
13 fishery;

14 “(iv) the existence and severity of pro-
15 jected economic and social impacts associ-
16 ated with implementation of limited access
17 privilege programs on harvesters, fishing
18 vessel captains and crews, fish processors,
19 and other businesses substantially depend-
20 ent upon the fishery in the region or sub-
21 region;

22 “(v) the expected effectiveness, oper-
23 ational transparency, and equitability of
24 the community sustainability plan; and



1 “(vi) the potential for improving eco-
2 nomic conditions in remote coastal commu-
3 nities lacking resources to participate in
4 harvesting or fish processing activities in
5 the fishery.

6 “(3) REGIONAL FISHERY ASSOCIATIONS.—

7 “(A) IN GENERAL.—To be eligible to par-
8 ticipate in a limited access privilege program to
9 harvest fish, a regional fishery association
10 shall—

11 “(i) be located within the management
12 area of the relevant Council;

13 “(ii) meet criteria developed by the
14 relevant Council, approved by the Sec-
15 retary, and published in the Federal Reg-
16 ister;

17 “(iii) be a voluntary association with
18 established by-laws and operating proce-
19 dures consisting of participants in the fish-
20 ery, including commercial or recreational
21 fishing, fish processing, fishery-dependent
22 support businesses, or fishing communities;
23 and

24 “(iv) develop and submit a regional
25 fishery association plan to the Council and



1 the Secretary for approval by the Council
2 based on criteria developed by the Council
3 that have been approved by the Secretary
4 and published in the Federal Register.

5 “(B) FAILURE TO COMPLY WITH PLAN.—

6 The Secretary shall deny or revoke limited ac-
7 cess privileges for a person that were granted to
8 a fishery association, if the person fails to com-
9 ply with the requirements of the regional fish-
10 ery association plan approved by the relevant
11 Council under subparagraph (A)(iv).

12 “(C) PARTICIPATION CRITERIA.—In devel-
13 oping participation criteria for eligible regional
14 fishery associations under this paragraph, a
15 Council shall consider—

16 “(i) traditional fishing or fish proc-
17 essing practices in, and dependence on, the
18 fishery;

19 “(ii) the cultural and social frame-
20 work relevant to the fishery;

21 “(iii) economic barriers to access to
22 fishery;

23 “(iv) the existence and severity of pro-
24 jected economic and social impacts associ-
25 ated with implementation of limited access



1 privilege programs on harvesters, captains,
2 crew, fish processors, and other businesses
3 substantially dependent upon the fishery in
4 the region or subregion, upon the adminis-
5 trative and fiduciary soundness of the as-
6 sociation and its by-laws; and

7 “(v) the expected effectiveness, oper-
8 ational transparency, and equitability of
9 the fishery association plan.

10 “(4) ALLOCATION.—In developing a limited ac-
11 cess privilege program to harvest fish a Council or
12 the Secretary shall—

13 “(A) establish procedures to ensure fair
14 and equitable initial allocations, including con-
15 sideration of—

16 “(i) current and historical harvests;

17 “(ii) employment in the harvesting
18 and fish processing sectors;

19 “(iii) investments in, and dependence
20 upon, the fishery; and

21 “(iv) the current and historical par-
22 ticipation of fishing communities;

23 “(B) to the extent practicable, consider the
24 basic cultural and social framework of the fish-
25 ery, especially through the development of poli-

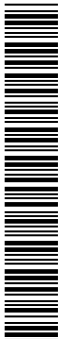


1 cies to promote the sustained participation of
2 small owner-operated fishing vessels and fishing
3 communities that depend on the fisheries, in-
4 cluding regional or port-specific landing or de-
5 livery requirements;

6 “(C) include measures to assist, when nec-
7 essary and appropriate, entry-level and small
8 vessel operators, captains, crew, and fishing
9 communities through set-asides of harvesting
10 allocations, including providing privileges and,
11 where appropriate, recommending the provision
12 of economic assistance in the purchase of lim-
13 ited access privileges to harvest fish;

14 “(D) for the purpose of preventing signifi-
15 cant adverse economic or social impact on any
16 fishing community or other person, ensure that
17 limited access privilege holders do not acquire
18 an excessive share of the total limited access
19 privileges in the program by—

20 “(i) establishing a maximum share,
21 expressed as a percentage of the total lim-
22 ited access privileges, that a limited access
23 privilege holder is permitted to hold, ac-
24 quired, or use; and



1 “(ii) establishing any other limitations
2 or measures necessary to prevent an in-
3 equitable concentration of limited access
4 privileges;

5 “(E) establish procedures to address geo-
6 graphic or other consolidation in both the har-
7 vesting and fish processing sectors of the fish-
8 ery;

9 “(F) authorize limited access privileges to
10 harvest fish to be held, acquired, or used by or
11 issued under the system to persons who sub-
12 stantially participate in the fishery, as specified
13 by the Council, including, as appropriate, fish-
14 ing vessel owners, vessel captains, vessel crew
15 members, fishing communities, and regional
16 fishery associations; and

17 “(G) ensure that no person otherwise
18 qualified to receive an initial allocation of a lim-
19 ited access privilege to harvest fish is required
20 to join any entity or association that limits in
21 any way the person’s ability to sell their catch
22 as a condition of that person receiving an initial
23 or annual allocation.

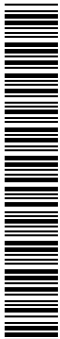
24 “(5) PROGRAM INITIATION.—



1 “(A) LIMITATION.—Except as provided in
2 subparagraph (D), a Council may initiate a
3 fishery management plan or amendment to es-
4 tablish a limited access privilege program to
5 harvest fish on its own initiative or if the Sec-
6 retary has certified an appropriate petition.

7 “(B) PETITION.—A group of fishermen
8 constituting more than 50 percent of the permit
9 holders in the fishery for which a limited access
10 privilege program to harvest fish is sought, may
11 submit a petition to the Secretary requesting
12 that the relevant Council or Councils with au-
13 thority over the fishery be authorized to initiate
14 the development of the program. Any such peti-
15 tion shall clearly state the fishery to which the
16 limited access privilege program would apply.
17 For multispecies permits in the Gulf, only those
18 participants who have substantially fished the
19 species proposed to be included in the limited
20 access program shall be eligible to sign a peti-
21 tion for such a program and shall serve as the
22 basis for determining the percentage described
23 in the first sentence of this subparagraph.

24 “(C) CERTIFICATION BY SECRETARY.—
25 Upon the receipt of any such petition, the Sec-



1 retary shall review all of the signatures on the
2 petition and, if the Secretary determines that
3 the signatures on the petition represent more
4 than 50 percent of the permit holders in the
5 fishery, as described by subparagraph (B), the
6 Secretary shall certify the petition to the appro-
7 priate Council or Councils.

8 “(D) NEW ENGLAND REFERENDUM.—

9 “(i) The New England Council may
10 not submit, and the Secretary may not ap-
11 prove or implement, a fishery management
12 plan or amendment that creates an indi-
13 vidual fishing quota program, including a
14 Secretarial plan, unless such a system, as
15 ultimately developed, has been approved by
16 more than $\frac{2}{3}$ of those voting in a ref-
17 erendum among eligible permit holders
18 with respect to the New England Council.
19 If an individual fishing quota program fails
20 to be approved by the requisite number of
21 those voting, it may be revised and sub-
22 mitted for approval in a subsequent ref-
23 erendum.

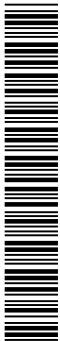
24 “(ii) The Secretary shall conduct a
25 referendum under this subparagraph, in-



1 cluding notifying all persons eligible to
2 participate in the referendum and making
3 available to them information concerning
4 the schedule, procedures, and eligibility re-
5 quirements for the referendum process and
6 the proposed individual fishing quota pro-
7 gram.

8 “(iii) The New England Fishery Man-
9 agement Council may determine that vessel
10 captains or crew members who have sub-
11 stantial participation in the fishery con-
12 cerned shall be eligible to vote in a ref-
13 erendum under this subparagraph. The
14 New England Fishery Management Coun-
15 cil shall establish the criteria for deter-
16 mining what constitutes ‘substantial par-
17 ticipation’ for purposes of this clause.

18 “(iv) Within 1 year after the date of
19 enactment of the American Fisheries Man-
20 agement and Marine Life Enhancement
21 Act, the Secretary shall publish guidelines
22 and procedures to determine procedures
23 and voting eligibility requirements (subject
24 to clause (iii)) for referenda and to conduct



1 such referenda in a fair and equitable
2 manner.

3 “(E) OTHER LAW.—Chapter 35 of title 44,
4 United States Code, (commonly known as the
5 Paperwork Reduction Act) does not apply to
6 the referenda conducted under this subpara-
7 graph.

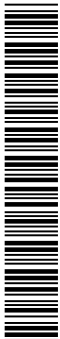
8 “(6) TRANSFERABILITY.—In establishing a lim-
9 ited access privilege program, a Council shall—

10 “(A) establish a policy on the transfer-
11 ability of limited access privilege shares
12 (through sale or lease), including a policy on
13 any conditions that apply to the transferability
14 of limited access privilege shares that is con-
15 sistent with the policies adopted by the Council
16 for the fishery under paragraph (2); and

17 “(B) establish criteria for the approval and
18 monitoring of transfers (including sales and
19 leases) of limited access privilege shares.

20 “(7) PREPARATION AND IMPLEMENTATION OF
21 SECRETARIAL PLANS.—This subsection also applies
22 to a plan prepared and implemented by the Sec-
23 retary under section 304(g).

24 “(8) LIMITATION ON FEDERAL AGENCIES AND
25 OFFICIALS.—A Federal agency or official may not



1 hold, administer, or reallocate an individual quota
2 issued under a fishery management plan under this
3 section, other than the Secretary and the Council
4 having authority over the fishery for which the indi-
5 vidual quota is issued.

6 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
7 lishing a limited access privilege program, a Council may
8 consider, and provide for, if appropriate, an auction sys-
9 tem or other program to collect royalties for the initial,
10 or any subsequent, distribution of allocations in a limited
11 access privilege program if—

12 “(1) the system or program is administered in
13 such a way that the resulting distribution of limited
14 access privilege shares meets the program require-
15 ments of subsection (c)(2)(A); and

16 “(2) revenues generated through such a royalty
17 program are deposited in the Limited Access System
18 Administration Fund established by section
19 305(h)(5)(B) and available subject to annual appro-
20 priations.

21 “(e) COST RECOVERY.—In establishing a limited ac-
22 cess privilege program, a Council shall—

23 “(1) develop a methodology and the means to
24 identify and assess the management, data collection



1 and analysis, and enforcement programs that are di-
2 rectly related to and in support of the program; and

3 “(2) provide, under section 304(d)(2), for a
4 program of fees paid by limited access privilege hold-
5 ers that will cover the costs of management, data
6 collection and analysis, and enforcement activities.

7 “(f) LIMITED DURATION.—In establishing a limited
8 access privilege program after the date of enactment of
9 the American Fisheries Management and Marine Life En-
10 hancement Act, a Council may establish—

11 “(1) a period of time after which any initial or
12 subsequent allocation of a limited access privilege
13 shall expire, or various periods for such expiration
14 within a fishery if the Council determines that vari-
15 ation of the periods will further achievement of man-
16 agement goals; and

17 “(2) a mechanism under which participants in
18 and entrants to the program may acquire or reac-
19 quire allocations.

20 “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-
21 CHASE PROGRAM.—

22 “(1) IN GENERAL.—A Council may submit, and
23 the Secretary may approve and implement, a pro-
24 gram that reserves up to 25 percent of any fees col-



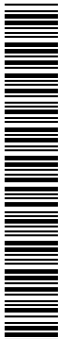
1 lected from a fishery under section 304(d)(2) to be
2 used to issue obligations that aid in financing—

3 “(A) the purchase of limited access privi-
4 leges in that fishery by fishermen who fish from
5 small vessels; and

6 “(B) the first-time purchase of limited ac-
7 cess privileges in that fishery by entry level
8 fishermen.

9 “(2) ELIGIBILITY CRITERIA.—A Council mak-
10 ing a submission under paragraph (1) shall rec-
11 ommend criteria, consistent with the provisions of
12 this Act, that a fisherman must meet to qualify for
13 guarantees under subparagraphs (A) and (B) of
14 paragraph (1) and the portion of funds to be allo-
15 cated for guarantees under each subparagraph.

16 “(h) EFFECT ON CERTAIN EXISTING SHARES AND
17 PROGRAMS.—Nothing in this Act, or the amendments
18 made by the American Fisheries Management and Marine
19 Life Enhancement Act, shall be construed to require a re-
20 allocation of individual quota shares, fish processor quota
21 shares, cooperative programs, or other quota programs,
22 including sector allocation, for which a Council has already
23 provided a substantial opportunity for public comment and
24 begun considering alternatives, or submitted by a Council



1 or approved by the Secretary or by congressional action
2 before the date of enactment of such Act.”.

3 (b) FEES.—Section 304(d)(2) (16 U.S.C.
4 1854(d)(2)) is amended—

5 (1) by redesignating subparagraphs (B) and
6 (C) as subparagraphs (F) and (G), respectively;

7 (2) in subparagraph (F), as so redesignated, by
8 striking “Such fee” and inserting “A fee under this
9 paragraph”; and

10 (3) by striking “(2)(A)” and all that follows
11 through the end of subparagraph (A) and inserting
12 the following:

13 “(2)(A) Notwithstanding paragraph (1), the
14 Secretary shall collect from a person that holds or
15 transfers an individual quota issued under a limited
16 access system established under section 303(b)(6)
17 fees established by the Secretary in accordance with
18 this section and section 9701(b) of title 31, United
19 States Code.

20 “(B) The fees required to be established and
21 collected by the Secretary under this paragraph are
22 the following:

23 “(i) With respect to any initial allocation
24 under a limited access system established after
25 the date of the enactment of the American

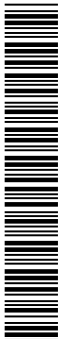


1 Fisheries Management and Marine Life En-
2 hancement Act, an initial allocation fee in an
3 amount, determined by the Secretary, equal to
4 1 percent of the ex-vessel value of fish author-
5 ized in one year under an individual quota, that
6 shall be collected from the person to whom the
7 individual quota is first issued.

8 “(ii) An annual fee in an amount, deter-
9 mined by the Secretary, not to exceed 3 percent
10 of the ex-vessel value of fish authorized each
11 year under an individual quota share, that shall
12 be collected from the holder of the individual
13 quota share.

14 “(iii) A transfer fee in an amount, deter-
15 mined by the Secretary, equal to 1 percent of
16 the ex-vessel value of fish authorized each year
17 under an individual quota share, that shall be
18 collected from a person who permanently trans-
19 fers the individual quota share to another per-
20 son.

21 “(C) In determining the amount of a fee under
22 this paragraph, the Secretary shall ensure that the
23 amount is commensurate with the cost of managing
24 the fishery with respect to which the fee is collected,
25 including reasonable costs for salaries, data analysis,



1 and other costs directly related to fishery manage-
2 ment and enforcement.

3 “(D) The Secretary, in consultation with the
4 Councils, shall promulgate regulations prescribing
5 the method of determining under this paragraph the
6 ex-vessel value of fish authorized under an individual
7 quota share, the amount of fees, and the method of
8 collecting fees.

9 “(E) Fees collected under this paragraph from
10 holders of individual quotas in a fishery shall be an
11 offsetting collection and shall be available to the Sec-
12 retary only for the purposes of administering and
13 implementing this Act with respect to that fishery.”.

14 (c) CONFORMING AMENDMENT.—Section
15 304(d)(2)(F)(i), as redesignated by subsection (b)(1) of
16 this section, is amended by striking “section
17 305(h)(5)(B)” and all that follows and inserting “section
18 305(h)(5)(B).”.

19 (d) LIMITED ACCESS PRIVILEGE DEFINED.—Sub-
20 section (a) of section 3 (16 U.S.C. 1802) is further
21 amended by inserting after paragraph (23) the following:

22 “(23A) The term ‘limited access privilege’—

23 “(A) means a Federal permit, issued as
24 part of a limited access system under section
25 303A to harvest a quantity of fish that may be



1 received or held for exclusive use by a person;
2 and
3 “(B) includes an individual fishing quota;
4 but
5 “(C) does not include community develop-
6 ment quotas as described in section 305(i).”.

7 **SEC. 8. JOINT FISHERIES ENFORCEMENT AGREEMENTS.**

8 Section 311 (16 U.S.C. 1861) is amended—

9 (1) by striking “and” after the semicolon in
10 subsection (b)(1)(A)(iv);

11 (2) by inserting “and” after the semicolon in
12 subsection (b)(1)(A)(v);

13 (3) by inserting after clause (v) of subsection
14 (b)(1)(A) the following:

15 “(vi) access, directly or indirectly, for
16 enforcement purposes any data or informa-
17 tion required to be provided under this
18 title or regulations under this title, includ-
19 ing data from vessel monitoring systems,
20 or any similar system, subject to the con-
21 fidentiality provisions of section 402;”;

22 (4) by redesignating subsection (h) as sub-
23 section (j); and

24 (5) by inserting after subsection (g) the fol-
25 lowing:



1 “(h) JOINT FISHERIES ENFORCEMENT AGREE-
2 MENTS.—

3 “(1) IN GENERAL.—The Governor of an eligible
4 State may apply to the Secretary for execution of a
5 joint fisheries enforcement agreement with the Sec-
6 retary that will authorize the deputization and fund-
7 ing of State officers with marine fisheries respon-
8 sibilities to perform duties of the Secretary relating
9 to fisheries enforcement provisions under this title or
10 any other marine resource law enforced by the Sec-
11 retary. Upon receiving an application meeting the
12 requirements of this subsection, the Secretary may
13 enter into a joint fisheries enforcement agreement
14 with the requesting State.

15 “(2) ELIGIBLE STATE.—A State is eligible to
16 participate in the cooperative agreements under this
17 section if it is in, or bordering on, the Atlantic
18 Ocean (including the Caribbean Sea), the Pacific
19 Ocean, the Arctic Ocean, or the Gulf of Mexico.

20 “(3) REQUIREMENTS.—Joint fisheries enforce-
21 ment agreements executed under paragraph (1)—

22 “(A) shall be consistent with the purposes
23 and intent of this section to the extent applica-
24 ble to the regulated activities; and



1 “(B) shall provide for confidentiality of
2 data and information submitted to the State
3 under section 402.

4 “(4) ALLOCATION OF FUNDS.—The Secretary
5 shall include in each joint fisheries enforcement
6 agreement an allocation of funds to assist in man-
7 agement of the agreement. The allocation shall be
8 fairly distributed among all eligible States partici-
9 pating in cooperative agreements under this sub-
10 section, based upon consideration of Federal marine
11 fisheries needs, the specific marine fisheries con-
12 servation needs of each participating eligible State,
13 and the capacity of the State to undertake the mis-
14 sion and assist with Federal needs. The agreement
15 may provide for amounts to be withheld by the Sec-
16 retary for the cost of any technical or other assist-
17 ance provided to the State by the Secretary under
18 the agreement.

19 “(i) IMPROVED DATA SHARING.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of this Act, as soon as practicable but no
22 later than 21 months after the date of enactment of
23 the American Fisheries Management and Marine
24 Life Enhancement Act, the Secretary shall imple-
25 ment data-sharing measures to make any data re-



1 quired to be provided by this Act from vessel moni-
2 toring systems, or similar systems—

3 “(A) directly accessible by State officers
4 authorized under subsection (a) of this section;
5 and

6 “(B) available to a State management
7 agency involved in, or affected by, management
8 of a fishery if the State has entered into an
9 agreement with the Secretary under section
10 402(b)(1)(B) of this Act.

11 “(2) AGREEMENT REQUIRED.—The Secretary
12 shall promptly enter into an agreement with a State
13 under section 402(b)(1)(B) of this Act if—

14 “(A) the State provides a written opinion
15 or certification that State law allows the State
16 to maintain the confidentiality of information
17 required by Federal law to be kept confidential;
18 or

19 “(B) the Secretary is provided other rea-
20 sonable assurance that the State can and will
21 protect the identity or business of any person to
22 which such information relates.”.

23 **SEC. 9. FUNDING FOR FISHERY OBSERVER PROGRAMS.**

24 (a) NORTH PACIFIC RESEARCH PLAN.—Section 313
25 (16 U.S.C. 1862) is amended—



1 (1) by striking subsections (a), (b), (c), and (d);

2 (2) by redesignating existing subsections (e),

3 (f), (g), (h), and (i) as subsections (a), (b), (c), (d),

4 and (e), respectively; and

5 (3) in subsection (c), as so redesignated—

6 (A) in paragraph (1) by striking “North

7 Pacific Fishery Observer Fund” and inserting

8 “Fishery Observer Fund established under sec-

9 tion 403(e)”; and

10 (B) in paragraph (2)(A) by striking

11 “303(b)(10)” and inserting “303(b)(8)”.

12 (b) OBSERVER PROGRAM FUNDING.—Section 403

13 (16 U.S.C. 1881(b)) is amended by adding at the end the

14 following:

15 “(d) OBSERVER PROGRAM FUNDING MECHANISM.—

16 “(1) IN GENERAL.—The Secretary may estab-

lish a funding mechanism to cover the cost of an ob-

server program to monitor any fishery managed

19 under this Act or any other Act administered by the

20 Secretary, including the Northern Pacific halibut

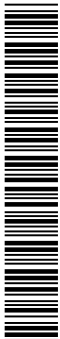
21 fishery.

22 “(2) FORM OF MECHANISM.—

23 “(A) The Secretary may exercise broad

24 discretion in developing a funding mechanism

25 under this subsection, which may include a sys-



1 tem of fees, payments collected from limited ac-
2 cess privilege programs, or any other cost recov-
3 ery mechanism to pay for—

4 “(i) the cost of stationing observers
5 on board fishing vessels and United States
6 fish processors, and

7 “(ii) the actual cost of inputting data
8 and managing observer databases.

9 “(B) The moneys collected under a fund-
10 ing mechanism established under this sub-
11 section for an observer program shall be—

12 “(i) deposited into the Fishery Ob-
13 server Fund established under subsection
14 (e); and

15 “(ii) used only for the observer pro-
16 gram covering fisheries from which the
17 moneys were collected.

18 “(e) FISHERY OBSERVER FUND.—

19 “(1) ESTABLISHMENT OF FUND.—There is es-
20 tablished on the books of the Treasury of the United
21 States, a fund that shall be known as the Fishery
22 Observer Fund (in this subsection referred to as the
23 ‘Fund’). The Fund shall be administered by the Sec-
24 retary of Commerce. The Fund shall be available,
25 subject to the availability of appropriations, only to



1 the Secretary for purposes of carrying out subsection
2 (d). The Fund shall consist of all moneys deposited
3 into in it accordance with this section, plus interest
4 on those moneys.

5 “(2) INVESTMENT OF AMOUNT.—

6 “(A) It shall be the duty of the Secretary
7 of the Treasury to invest, at the direction of the
8 Secretary of Commerce, such portion of the
9 Fund that is not currently needed for the pur-
10 poses of each observer program covering fish-
11 eries from which moneys were collected under
12 subsection (d).

13 “(B) Such investments shall be in public
14 debt obligations with maturities suitable to the
15 needs of the Fund, as determined by the Sec-
16 retary of Commerce. Investments in public debt
17 obligations shall bear interest at rates deter-
18 mined by the Secretary of the Treasury taking
19 into consideration the current market yield on
20 outstanding marketable obligations of the
21 United States of comparable maturity.

22 “(3) SALE OF OBLIGATION.—Any obligation ac-
23 quired by the Fund may be sold by the Secretary of
24 the Treasury at the direction of the Secretary of
25 Commerce at market prices.



1 “(f) CONTRIBUTIONS.—For purposes of carrying out
2 subsections (d) and (e), the Secretary may accept, solicit,
3 receive, hold, administer, and use gifts, devices, contribu-
4 tions, and bequests. Amounts received under this sub-
5 section shall be deposited in the Fishery Observer Fund
6 established under subsection (c).”.

7 **SEC. 10. COMPETING STATUTES.**

8 (a) REQUIRED INFORMATION IN MANAGEMENT
9 PLANS.—Section 303(a) (16 U.S.C. 1853A)) is further
10 amended by adding at the end the following:

11 “(17) contain information on the Council’s ef-
12 ferts to study, develop, and describe appropriate al-
13 ternatives to recommend courses of action;”.

14 (b) REQUIRED ANALYSIS IN MANAGEMENT PLANS.—
15 Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by
16 striking “describe the likely effects, if any, of the conserva-
17 tion and management measures on—” and inserting “ana-
18 lyze the likely effects, if any, including the cumulative con-
19 servation, economic, and social impacts of, the conserva-
20 tion and management measures on, and possible mitiga-
21 tion measures for—”.

22 (c) COMPLIANCE WITH NATIONAL ENVIRONMENTAL
23 POLICY ACT OF 1969.—

24 (1) IN GENERAL.—Title III (16 U.S.C. 1851 et
25 seq.) is amended by adding at the end the following:



1 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**
2 **POLICY ACT OF 1969.**

3 “(a) IN GENERAL.—The Secretary may consider the
4 requirements of section 102(2)(C) of the National Envi-
5 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) to
6 have been satisfied with respect to any fishery manage-
7 ment plan, amendment to such a plan, or regulation imple-
8 menting such a plan that the Secretary determines has
9 been prepared in accordance with applicable provisions of
10 sections 303 and 304 of this Act.

11 “(b) LIMITATION OF APPLICATION.—This section
12 shall not apply unless the Secretary has published a deter-
13 mination that sections 304 and 305 are substantially
14 equivalent to section 102(2)(C) of the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents in the first section is amended by adding at
18 the end of the items relating to title III the fol-
19 lowing:

“Sec. 315. Compliance with National Environmental Policy Act of 1969.”.

20 (3) EFFECT ON TIME REQUIREMENTS.—Section
21 305(e) (16 U.S.C. 1855(E)) is amended by inserting
22 “the National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.),” after “the Regulatory Flexi-
24 bility Act (5 U.S.C. 601 et seq.),”.



1 (d) REVIEW OF FISHERY REGULATIONS IN NA-
2 TIONAL MARINE SANCTUARIES.—Section 304 (16 U.S.C.
3 1854) is amended by adding at the end the following:

4 “(j) REVIEW OF FISHERY PROPOSED REGULATIONS
5 IN NATIONAL MARINE SANCTUARIES.—

6 “(1) The Secretary shall review any regulation
7 proposed under the National Marine Sanctuaries Act
8 (16 U.S.C. 1431 et seq.) for the conservation or
9 management of fish (whether or not such fish are
10 managed under a fishery management plan), or for
11 the conservation or management of essential fish
12 habitat identified under section 303.

13 “(2) A proposed regulation referred to in para-
14 graph (1) shall not take effect unless the Secretary
15 certifies that the proposed regulation—

16 “(A) meets the national standards under
17 section 301(a);

18 “(B) is consistent with the other provisions
19 of this Act; and

20 “(C) is consistent with any ecosystem-
21 based fishery management plan that includes
22 the provisions authorized under section
23 303(b)(14).



1 “(3) This subsection shall not apply with re-
2 spect to any national marine sanctuary located, or
3 proposed to be located, off the coast of Hawaii.”.

4 **SEC. 11. DIMINISHED FISHERIES.**

5 (a) SUBSTITUTION OF “DIMINISHED” FOR “OVER-
6 FISHED”.—

7 (1) SUBSTITUTION OF TERM.—The Act is
8 amended—

9 (A) by striking “overfished” each place it
10 appears (other than in subsection (a) of section
11 3 of the Act (16 U.S.C. 1802), as amended by
12 this Act) and inserting “diminished”; and

13 (B) in the heading for section 304(e) (16
14 U.S.C. 1854(e)) by striking “OVERFISHED”
15 and inserting “DIMINISHED”.

16 (2) DIMINISHED DEFINED.—Subsection (a) of
17 section 3 (16 U.S.C. 1802) is further amended—

18 (A) by inserting after paragraph (8) the
19 following:

20 “(8A) The term ‘diminished’ means a fishery
21 whose abundance is at or below a level that jeopard-
22 izes the capacity of the fishery to produce maximum
23 sustainable yield on a continuing basis.”; and

24 (B) by amending paragraph (29) to read
25 as follows:



1 “(29) The term ‘overfishing’ means a rate or
2 level of fishing mortality that jeopardizes the capac-
3 ity of a fishery to produce the maximum sustainable
4 yield on a continuing basis.”.

5 (3) DISTINGUISHING IN REPORTS.—Section
6 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by
7 adding at the end the following: “The report shall
8 distinguish between fisheries that are diminished (or
9 approaching that condition) as a result of fishing
10 and fisheries that are diminished (or approaching
11 that condition) as a result of factors other than fish-
12 ing. The report shall state, for each fishery identi-
13 fied as diminished or approaching that condition,
14 whether the fishery is the target of directed fish-
15 ing.”.

16 (b) DURATION OF MEASURES TO REBUILD DIMIN-
17 ISHED FISHERIES.—Section 304(e)(4)(A)(ii) of the Mag-
18 nuson-Stevens Fishery Conservation and Management Act
19 (16 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as fol-
20 lows:

21 “(ii) not exceed 10 years, except in
22 cases where—

23 “(I) the biology of the stock of
24 fish, other environmental conditions,
25 or management measures under an



1 international agreement in which the
2 United States participates dictate oth-
3 erwise;

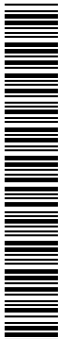
4 “(II) the Secretary determines
5 that such 10-year period should be ex-
6 tended because the cause of the fish-
7 ery decline is outside the jurisdiction
8 of the Council or the rebuilding pro-
9 gram cannot be effective only by lim-
10 iting fishing activities;

11 “(III) the Secretary determines
12 that such 10-year period should be ex-
13 tended for one or more diminished
14 components of a multi-species fishery;
15 or

16 “(IV) the Secretary makes sub-
17 stantial changes to the rebuilding tar-
18 gets after the rebuilding plan has
19 been put in place.”.

20 **SEC. 12. NEW PROHIBITED ACTS.**

21 (a) PROHIBITION ON SALE OR PURCHASE OF REC-
22 REATIONAL CATCH.—Section 307 (16 U.S.C. 1857) is
23 amended by striking “and” after the semicolon at the end
24 of paragraph (4), by striking the period at the end of para-



1 graph (5) and inserting “; and”, and by adding at the
2 end the following:

3 “(6) to sell or purchase any fish caught in rec-
4 reational fishing.”.

5 (b) PROHIBITION ON USE OF RETIRED VESSEL.—
6 Section 307(1) (16 U.S.C. 1857(1)) is amended—

7 (1) by striking “or” after the semicolon in sub-
8 paragraph (O);

9 (2) by striking “carcass.” in subparagraph (P)
10 and inserting “carcass; or”; and

11 (3) by inserting after subparagraph (P) and be-
12 fore the last sentence the following:

13 “(R) to use any fishing vessel to engage in
14 fishing in Federal or State waters, or on the
15 high seas or the waters of another country,
16 after the Secretary has made a payment to the
17 owner of that fishing vessel under section
18 312(b)(2).”.

19 **SEC. 13. FISHERY FAILURES.**

20 Section 312(a) (16 U.S.C. 1361a) is amended by
21 striking “commercial fishery” each place it appears and
22 inserting “fishery”.

23 **SEC. 14. EMERGENCY REGULATIONS.**

24 (a) LENGTHENING OF SECOND EMERGENCY PE-
25 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))



1 is amended by striking “180 days,” and inserting “186
2 days,”.

3 (b) TECHNICAL AMENDMENT.—Section
4 305(c)(3)(D)) (16 U.S.C. 1855(c)(3)(D)) is amended by
5 inserting “or interim measures” after “emergency regula-
6 tions”.

7 **SEC. 15. BYCATCH AND SEABIRD INTERACTIONS.**

8 (a) GEAR GRANT PROGRAM.—Title IV (1 U.S.C.
9 1881 et seq.) is further amended by adding at the end
10 the following:

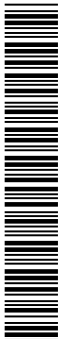
11 **“SEC. 409. GEAR GRANT PROGRAM.**

12 “(a) IDENTIFICATION OF FISHERIES WITH MOST
13 URGENT PROBLEMS.—The Secretary shall—

14 “(1) identify those fisheries included in a list
15 under subsection (a) that have the most urgent by-
16 catch problems or seabird interaction problems,
17 based on comments received regarding the list; and

18 “(2) work in conjunction with the Councils and
19 fishing industry participants to develop new fishing
20 gear, or modifications to existing fishing gear, that
21 will help minimize bycatch and seabird interactions
22 to the extent practicable.

23 “(b) GRANT AUTHORITY.—The Secretary shall, sub-
24 ject to the availability of appropriations, make grants for



1 the development of fishing gear and modifications to exist-
2 ing fishing gear that will help—

3 “(1) minimize bycatch and seabird interactions;
4 and

5 “(2) minimize adverse fishing gear impacts on
6 habitat areas of particular concern.

7 “(c) REPORT.—The Secretary shall report to the
8 Congress annually on—

9 “(1) the amount expended to implement this
10 section in the preceding year;

11 “(2) developments in gear technology achieved
12 under this section;

13 “(3) the reductions in bycatch associated with
14 implementation of this section; and

15 “(4) any other relevant information.

16 “(d) AUTHORIZATION OF APPROPRIATIONS.—To
17 carry out this section there is authorized to be appro-
18 priated to the Secretary \$10,000,000 for each of fiscal
19 years 2007 through 2011.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in the first section is amended by adding at the end of
22 the items relating to title IV the following:

“Sec. 409. Bycatch identification and gear grant program.”.

23 (c) REPORT.—The Secretary of Commerce shall re-
24 port to the Congress within one year after the date of the
25 enactment of this Act on—



1 (1) the extent of the problem of seabird inter-
2 action with fisheries of the United States;

3 (2) efforts by the fishing industry and Regional
4 Fishery Management Councils to address that prob-
5 lem; and

6 (3) the extent of the problem of seabird inter-
7 action with fisheries other than the fisheries of the
8 United States.

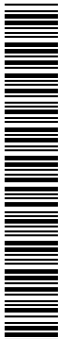
9 (d) INTERNATIONAL ACTION.—The Secretary of
10 Commerce shall take appropriate action at appropriate
11 international fisheries management bodies to reduce
12 seabird interactions in fisheries.

13 **SEC. 16. OVER CAPITALIZATION.**

14 (a) DISCRETION OF SECRETARY TO CONDUCT FISH-
15 ING CAPACITY REDUCTION PROGRAM.—Section 312(b)
16 (16 U.S.C. 1861a(b)) is amended—

17 (1) in paragraph (1) by striking “, at the re-
18 quest of the appropriate Council for fisheries under
19 the authority of such Council, or the Governor of a
20 State for fisheries under State authority,”;

21 (2) in paragraph (1), by inserting “that is man-
22 aged under a limited access system authorized by
23 section 303(b)(6),” after “in a fishery”; and



1 (3) by redesignating paragraph (4) as para-
2 graph (5), and by inserting after paragraph (3) the
3 following:

4 “(4) The Council, or the Governor of a State, having
5 authority over a fishery may request the Secretary to con-
6 duct a fishing capacity reduction program in the fishery
7 under this subsection.”.

8 (b) REQUIREMENT TO SURRENDER ALL PERMITS.—
9 Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to
10 read as follows:

11 “(2)(A) The objective of the program shall be to ob-
12 tain the maximum sustained reduction in fishing capacity
13 at the least cost and in a minimum period of time.

14 “(B) To achieve that objective, the Secretary is
15 authorized to pay an amount to the owner of a fish-
16 ing vessel, if—

17 “(i) such vessel is scrapped, or through the
18 Secretary of the department in which the Coast
19 Guard is operating, subjected to title restric-
20 tions that permanently prohibit and effectively
21 prevent its use in fishing;

22 “(ii) all permits authorizing the participa-
23 tion of the vessel in any fishery under the juris-
24 diction of the United States are surrendered for
25 permanent revocation; and



1 “(iii) the owner of the vessel and such per-
2 mits relinquishes any claim associated with the
3 vessel and such permits that could qualify such
4 owner for any present or future limited access
5 system permit in the fishery for which the pro-
6 gram is established.”.

7 (c) ENSURING VESSELS DO NOT ENTER FOREIGN OR
8 HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C.
9 1861a(b)) is further amended by adding at the end the
10 following:

11 “(6) The Secretary may not make a payment under
12 paragraph (2) with respect to a vessel that will not be
13 scrapped, unless the Secretary certifies that the vessel will
14 not be used for any fishing, including fishing in the waters
15 of a foreign nation and fishing on the high seas.”.

16 (d) REPORT.—

17 (1) IN GENERAL.—The Secretary shall, within
18 12 months after the date of the enactment of this
19 Act, submit to the Congress a report—

20 (A) identifying and describing the 20 fish-
21 eries in United States waters with the most se-
22 vere examples of excess harvesting capacity in
23 the fisheries, based on value of each fishery and
24 the amount of excess harvesting capacity as de-
25 termined by the Secretary;



1 (B) recommending measures for reducing
2 such excess harvesting capacity, including the
3 retirement of any latent fishing permits that
4 could contribute to further excess harvesting ca-
5 pacity in those fisheries; and

6 (C) potential sources of funding for such
7 measures.

8 (2) BASIS FOR RECOMMENDATIONS.—The Sec-
9 retary shall base the recommendations made with re-
10 spect to a fishery on—

11 (A) the most cost effective means of
12 achieving voluntary reduction in capacity for
13 the fishery using the potential for industry fi-
14 nancing; and

15 (B) including measures to prevent the ca-
16 pacity that is being removed from the fishery
17 from moving to other fisheries in the United
18 States, in the waters of a foreign nation, or in
19 the high seas.

20 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) AUTHORIZATION.—Section 4 (16 U.S.C. 1803) is
22 amended by striking paragraphs (1) through (4) and in-
23 serting the following:

24 “(1) \$338,970,000 for fiscal year 2007.

25 “(2) \$366,087,000 for fiscal year 2008.



1 “(3) \$395,374,000 for fiscal year 2009.

2 “(4) \$427,604,000 for fiscal year 2010.

3 “(5) \$461,812,000 for fiscal year 2011.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in the first section is amended by inserting after the item
6 relating to section 3 the following:

“Sec. 4. Authorization of appropriations.”.

7 **SEC. 18. REVIEW AND REPORT REGARDING VIOLATIONS OF**
8 **DISCLOSURE, CONFLICT OF INTEREST, AND**
9 **RECUSAL PROVISIONS.**

10 The Secretary of Commerce shall, within 6 months
11 after the date of enactment of this Act, review the votes
12 of all Fishery Management Councils that have occurred
13 since the date of the enactment of the Sustainable Fish-
14 eries Act (Public Law 104–297) and report to the Com-
15 mittee on Resources of the House of Representatives on
16 whether there were any meaningful violations of the disclo-
17 sure, conflict of interest, and recusal provisions of section
18 302(j) of the Magnuson-Stevens Fishery Conservation and
19 Management Act (16 U.S.C. 1852(j)). The Secretary shall
20 include in the report recommendations for legislative or
21 regulatory changes to section 302(j) of such Act as the
22 Secretary considers appropriate to address situations with
23 respect to which violations were identified in the review.

